App.F.IX-4

1926. File No. 63-26

Previous References (Courts) Serial Nos. 1
No 259-21(1-3)

Later references.
No 80-26 (1-2)

Preserve

GENERAL AND REVENUE SECRETARIAT.

PRESERVED

Serial Nos. One

Part B for September 1926.

SUBJECT

Circular in the matter of selecting men for the Bench courts.

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cir nop 1102-109 28-8-26

To all Divisional Magistrates of Districts.

Invites attention to Govt letter dt 23-11-09 and requests to give personal attention in the matter of the selection of Bench magistrates and recommend only those who are trustworthy, efficient and capable of discharging the duties expected of them satisfactorily.

Manavasamy Iyengar
8/9/26

P 8-0

1 2

Responsibility sheet relating to the observations made by the Dewan in his speeches of the Representative Assembly, Birthday Session, 1926.

Subject.	Dewan's Observations.	Department.	Officer responsible.
23. Honorary bench Magistrates.	Government have no wish to go back upon their declared policy. Government have noted the criticisms made by several members about the constitution of the Bench Courts at present, and we hope to be able to take measures to improve the working of these institutions.	Local and Legislative Secretariat.	

Note

2) A copy of the speeches of the various members of the R.A. on the subject is necessary to take action under this may be sent to the Office of the Secy R.A and L.C for kindly putting up a copy

3/7/26 3) To the Office of the Secy R.A & dc for kindly putting up a copy of the discussions on the subject.

Rec'd 5/7

4) To have a spare copy ready

Rg 5/7

OFFICE OF THE SECRETARY
5 JUL 1926
REPRESENTATIVE ASSEMBLY, LEGISLATIVE COUNCIL & EDUCATIONAL CONFERENCE

5) Submitted.
A Spare copy is not available. The discussions cover over ten pages of typed matter & if approved, they may be typed & a copy sent.

9/7 9.7.26

Serial No.

Page 15 para (1)

Page 18. para 1

Page 20 para (1)

Page 21 para (3)

Page 24

Page 17 - para (2)

Page 18 - para (5)

b) From the notes of discussion, it is seen that criticism was levelled on the following:-

(1) Re-establishment of the Bench courts that have been abolished.

Reasons: (1) Bench courts form the training ground for Govt. work and co-operation with Govt.

(2) Bench courts solve the proper institutions for the disposal of petty cases such as cattle trespass, municipal cases, land to land fight etc and as men of the locality could dispose of the cases very amicably and quickly.

(3) The Bench courts form the link between official and non-official work.

(4) The Bench magistrates would be in a better position to advise the rural people to conduct themselves better and to bring about a compromise.

(5) The Bench courts are necessary in the interests of the poor classes who could not pay very heavy fees to the lawyers.

Govt have already replied that they have no wish to go back upon their declared policy.

(2) Abolition of Stipendiary magistrates' courts

Reasons (1) If there are not enough cases the result cannot be to abolish the Stipendiary magistrates' courts and retain the Bench courts.

(2) Govt have stated that the second class magistrates' courts would be abolished wherever they

NOTE—Contn. Sheet

Serial No.

they were not wanted and the work transferred to the First class courts. Instead of that they abolished the Bench courts and transferred their work to the Second ~~First~~ class magistrate's courts. That was against the principle laid down by Govt.

In another connection a confidential letter has been issued calling for the opinion of the Dists as to whether some of the Stipendiary magistrate's courts may not be abolished by redistribution of jurisdiction and creation of more Bench courts. They need not be pursued here.

Y

(3) Improvements to Bench courts:

(a) They should be given increased powers

(b) The most regular and intelligent member of the Bench might be vested with special powers to dispose of cases on his own responsibility.

(Page 19 - para (1)
Page 22 - para (3)

Most of the Bench Courts in the Dt Headquarters towns have been invested with Second class powers and all the ~~other~~ other courts with ~~Second~~ Third class powers. It is not known whether it is the intention of the members that they should be given first and second class powers respectively. If it is so, recommendations from the Dts would have to be called for. ~~or~~

As regards investing an intelligent member of the Bench with powers to try cases solely on the

NOTE—Contn. Sheet

Serial No.

over responsibility. It is urged that it is very difficult to have a control over them. As Honorary men, first Class have no hold on them and if they do not turn up to the Court on a particular day, witnesses and parties who go to court will be put to great loss. On this point also, opinions from the Dewans might be called for if approved.

9 (b). Defects of the present Bench courts

Page 20 para (3) (a) The cases are not conducted very well, Magts do not know procedure. Even best highly educated judges fail to record evidence correctly

Page 21 para (5) (b). The agitation to grant powers roused some suspicion that the non-officials had some vested interests. If the Bench courts are to be abolished

10 This is another view of the question. If approved this view also may be sent for the opinion of the Dewans along with (3) — [This aspect does not seem to arise in view of the 18th sentence of the Dewan's Observations].

For orders

B 16/12/26 for 1927

11) Please enquire. Cas 20/7

12) All the remarks about the necessity for the Bench Courts, their good work etc, call for no action. Confining ourselves to the remarks of the Dewans, Please specify the Criticisms, if any, about the Constitution of Bench Courts. Do anything suggested in the discussions about improving their working? Cas 20/7

NOTE—Contn. Sheet

16/12/26

WD 01264—GPB—40,000—27-12-26

Serial No.

Subd 13)

Kind reference is invited to para (8) above wherein, it is noted that the members have asked for additional powers to the Bench courts. It is also requested that Honorary magistrates should be empowered to try cases on their individual responsibility as Stipendiary magistrates. The views of DDs may be consulted in these matters of appeal

BF 28/7/26 14)

1. Criticisms

By Mr Sheriff — Many of the Magistrates are unlettered & do not know the procedure or case law; many are old men and have no patience to hear arguments or understand the processes

By Mr Abdul Nabi — It is not right that people who could not discriminate what evidence to read & what not should be entrusted with any powers

2. Improvement Suggested

By Mr Paramasivayya — Courts to be invested with additional powers wherever necessary. In Western Countries Bench Magistrates are given even I class powers

By Mr Basalingappa — The most regular and intelligent member of the Bench may be invested with special powers to dispose Cases on his own responsibility

Ahr 29/7

NOTE—Contn. Sheet

Serial No.

15 The Criticism against the Bench Courts is mainly against the personnel. It is urged that they do not know land procedure; what evidence to recad & which to reject &c.

16 In this connection attention is invited to flags B & N. orders have issued to appoint as Chairmen only those who have either acted as magistrates or practised as lawyers. If necessary the attention of the Distt magistrates may again be drawn to these orders. Nothing further can be done.

17 Suggestions were also made to increase the powers of the Bench magistrate & if necessary, to invest a single individual ~~Recorder with~~ who is regular & intelligent with powers of disposal of cases.

18 As regards powers, most of the Bench Courts exercise third class powers & Several Second class powers. This appears to be enough. Whether any additional powers may be given is for consideration.

19 Investing a single magistrate with powers of disposal is not possible. A Bench cannot consist of a single individual. There must be at least two magistrate to constitute a Bench & dispose of cases.

L & L Secy

20) The present system of appointing a Chairman having experience either as a lawyer or

Cey 3/1/27

Serial No.

Magistrate to try cases along with other magistrates does not require any change at present.

2) The chief nuisance seems to be that right class of persons commanding influence & respect in the locality is not often selected.

2) If the Dt. Mts take more interest & use their judgment ~~wisely~~ discriminately in the selection of really trustworthy & honest & conscientious persons, there will be no cause for complaint. The system is working very well in Ctrl Provs for the last 25 years or more

1371
3.8.

Please ?

3/8

3) A Govt letter to D.M.s summarising the instructions & requiring them to pay personal attention to selecting honourable & upright persons only, or if they & Chief Comrs desire it, to the issue of the proposed Govt.

cay 3/8

5/8

5/8

-F.

1933
16/8

4) Govt have issued orders previous on such matters. Send with draft to the Dms for Please type as revised

cay 4/8

B
8/8/26
9/8

5) Send with the revised draft typed for Consideration

cay 12/8

NOTE—Contn. Sheet

B
13/8/26 13/8

1st Secy

2) 1378 cay 13/8

General and Revenue Secretariat

File No. 63 of 192 6.

Serial No.

28) Resubd for orders if the draft may issue. Also for orders if the file may has to be subd to the Dewan, as achan is taken on his observations at the R.A meeting.

29) (Vide Responsible Section) may be subd to the Dewan before issue.

DEWAN'S OFFICE
Received on
19. AUG. 1926
Reg. No. 1299.

Dewan Impressive

To
The Dt Magistrate of Dts
No P-1102-10 D 28.8.26
Invites attention to Govt letter D) 23/11/1909 and requests to give personal attention in the matter of the Selection of Bench magistrates and recommend only those who are trustworthy, efficient and capable of discharging the duties expected of them satisfactorily

30) The unverified copy of the proceedings may perhaps be returned now as requested

31) To RA Office forwarding the COS of the Prop & returning the file

OFFICE OF THE SECRETARY
31. AUG. 1926
REPRESENTATIVE ASSEMBLY.
LEGISLATIVE COUNCIL &
LEGISLATIVE COMMITTEE

Copy taken 1/9/26

Prot. Bor)

1.9.26

NOTE—Contn. Sheet

19

Confidential.

To Circulars.

The District Magistrates of Districts.

NOT 1102-10 (courts cases)
8/28.8.26.
Ct 63-26-1.

~~Dear Sir,~~

In the recent Session of the R.A., the selection of Bench Magistrates came in for adverse criticism, during the discussion of the Adjournment Motion relating to the abolition of certain Bench Courts. The majority of these Magistrates were alleged to be illiterate, ignorant of case-law, and the procedure to be followed and -- unable to discriminate between what is relevant and what is irrelevant.

Some members

Instructions have been issued by Government in this office letter dated 23-11-1909 to all District Magistrates (copy enclosed for reference) directing that no Bench be constituted without one who has had ~~no~~ experience as a Lawyer or as a Judicial Officer, presiding over it. It is for obvious reasons not possible to expect all the Magistrates forming a Bench to be well-versed in the rules of procedure and case-law, but the association of a Chairman having experience in these -- matters will surely minimise some of the defects brought to notice. Selection of educated men with energy and enthusiasm for work as Magistrates is also necessary -- wherever such men are available.

The attention of the District Magistrates is invited to the communication referred

referred to above and they are requested to carry out the instruction invariably in all cases. They are also requested to give their personal attention in the matter of the selection of Bench Magistrates and recommend only those who are trustworthy, efficient and capable of discharging the duties expected of them satisfactorily.

Yours sincerely,

Secretary,
L.& L.Deptts.

Copy to Registrar, Chief Court under a C.L.

KNN